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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Cy A. Stein

Serial No.: 09/832,648      Examiner: J. Epps-Ford

Filed : April 11, 2001      Group Art Unit: 1635

: OLIGONUCLEOTIDE INHIBITORS OF bcl-xL

1185 Avenue of the Americas  
New York, New York 10036  
February 3, 2003

For Assistant Commissioner for Patents  
Washington, D.C. 20231

SIR:

COMMUNICATION IN RESPONSE TO JANUARY 9, 2003 OFFICE ACTION AND  
PETITION FOR THREE-MONTH EXTENSION OF TIME

This Communication is submitted in response to a January 9, 2003 Office Action issued by the United States Patent and Trademark Office in connection with the above-identified application. A response to the January 9, 2003 Office Action is due as determined by the period of reply set forth in the prior Office Action issued October 2, 2002 in connection with the above-identified application, i.e. due November 2, 2002. Applicants hereby petition for a three-month extension of time to respond. The fee for a three-month extension of time for a small entity is FOUR HUNDRED AND SIXTY FIVE DOLLARS (\$465.00) and a check for this amount is enclosed. A response is now due February 2, 2003. However, since February 2, 2003 falls on a Sunday, a response filed on the next succeeding day which is not a Saturday, Sunday, or Federal Holiday, i.e. February 3, 2003, is considered timely under 37 C.F.R. §1.7. Accordingly, this Communication is being timely filed.

In the January 9, 2003 Office Action the Examiner stated that the

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reply filed October 24, 2002 is not fully responsive to the prior Office Action. The Examiner stated that there is no amendment showing the change in claim language of claim 28 from a method to a composition claim.

In response, applicants note that, as stated in their communication filed October 24, 2002, amended claim 28 was inadvertently numbered as such. Applicants had in fact amended claim number 36, as shown in Exhibit A of applicants' response filed October 24, 2002. Accordingly, an amendment showing the change in claim language of claim 28 from a method claim to a composition claim is not required because claim 28 has not been amended. Moreover, original claim 36 and amended claim 36 both recite composition language and not method language. Accordingly, applicants maintain that claim 28 has not been amended, and respectfully request that the Examiner enter the Supplemental Amendment filed with their October 24, 2002 Communication, and maintain that the Supplemental Amendment is in compliance with 37 C.F.R. §1.121(c).

The Examiner further stated that Exhibit C (corrected drawings) was not attached to applicants' response filed October 29, 2002. In response, applicants note that Exhibit C (corrected drawings) was attached to applicants' response filed June 25, 2002, and not to applicants' later response filed October 24, 2002. This is evidenced by **Exhibit 1**, which is a returned postcard referring to Exhibit C, and stamped as received by the United States Patent and Trademark Office. However, in an effort to expedite prosecution, applicants attach hereto as **Exhibit 2** a copy of the Amendment filed October 24, 2003, including **Exhibits A-C**, with Exhibit C being a duplicate set of the corrected drawings.

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If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorneys invite the Examiner to telephone them at the number provided below.

No fee, apart from the \$465.00 fee for a three-month extension of time, is deemed necessary in connection with the filing of this Communication. However, if any such fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,



I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:  
Assistant Commissioner for Patents,  
Washington, D.C. 20231.

  
Peter J. Phillips

2/3/03

Date

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